

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JAMES SCHLEGEL and KELLY SCHLEGEL,	:	CIVIL ACTION NO. 1:05-CV-0660
	:	
Plaintiffs	:	(Judge Conner)
	:	
v.	:	
	:	
WILSON-COOK MEDICAL, INC.,	:	
	:	
Defendant/Third-Party Plaintiff	:	
	:	
v.	:	
	:	
A. DAVID FROEHLICH, M.D., et al.,	:	
	:	
Third-Party Defendants	:	

ORDER

AND NOW, this 30th day of August, 2007, upon consideration of the request by third-party defendant Holy Spirit Hospital for a protective order precluding defendant/third-party plaintiff Wilson-Cook Medical, Inc. from seeking discovery regarding whether third-party defendant Dr. Froehlich was an ostensible agent of Holy Spirit Hospital, and Holy Spirit Hospital's motion for summary judgment (Doc. 72), and following a telephone conference with the parties (see Doc. 87), and it appearing that the parties agree that the court must determine whether the joint tortfeasor agreement between plaintiffs and third-party defendants (Doc. 80-2) is a

pro rata release under Pennsylvania law,¹ but they dispute the effect a pro rata release would have on the instant action, it is hereby ORDERED that:

1. Holy Spirit Hospital's request for a protective order is GRANTED as follows: Discovery on the issue of whether Dr. Froehlich was an ostensible agent of Holy Spirit Hospital is STAYED pending resolution of the motion for summary judgment (Doc. 72).
2. All parties shall be permitted to file, on or before September 28, 2007, a supplemental brief addressing whether the joint tortfeasor release between plaintiffs and third-party defendants (Doc. 80-2) is a pro rata release under Pennsylvania law and the effect of a pro rata release on the instant action.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge

¹ During the telephone conference, the court informed the parties that it would address the issue of whether the joint tortfeasor agreement (Doc. 80-2) is a pro rata release in the context of the pending motion for summary judgment (Doc. 72). The court notes that Holy Spirit Hospital and Wilson-Cook Medical, Inc. did not address this issue in briefing the motion.